

# Committee on Resources

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## STATEMENT OF JOHN J. CONSIDINE

### HOUSE COMMITTEE ON RESOURCES

#### SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

#### HEARINGS ON SANCTIONS RESOLUTION # 268

SEPTEMBER 11, 2003

Mr. Chairman, members of the Committee, thank you for this opportunity to testify. I am John Considine, Director of the Cargo Verification Division, Trade Compliance and Facilitation at the Bureau of Customs and Border Protection (CBP).

Although the main focus of the CBP has shifted to protecting the United States from terrorist attacks, CBP also enforces over 400 requirements for more than 40 other federal agencies at U.S. borders. These requirements include the laws that prohibit the illegal importation of fish and marine products that fall under the jurisdiction of the National Marine Fisheries Service (NMFS), a part of the National Oceanic and Atmospheric Administration (NOAA) under the Department of Commerce.

While the NMFS has the expertise and authority over these laws and takes the lead in developing regulations to implement these laws, they consult closely with CBP to ensure that such regulations are practical to enforce.

CBP and NMFS have a close working relationship. A Memorandum Of Understanding (MOU) between the agencies has been in force since 1996. Under this MOU, CBP provides to NMFS, on a monthly basis, data collected by our Automated Commercial System (ACS) on imports of fish species and products that NMFS monitors for enforcement and compliance purposes. This MOU is modified on a regular basis by NMFS to reflect any changes in laws, rules and requirements regarding products under their jurisdiction.

The two agencies have also worked closely in enforcing import restrictions on various types of fish. When the requirements for the import of these fish and marine products are changed, CBP will inform its local offices of these changes through memoranda issued to the field. Instructions in ACS are updated to ensure that these new requirements are met.

Cooperation between the two agencies on Antarctic and Patagonian toothfish, popularly known as Chilean sea bass, over the past few years has lead to several significant enforcement actions, including seizures and arrests by NMFS for the smuggling of toothfish. CBP is also working with NMFS on several ongoing investigations on the West Coast.

NMFS is also exploring setting up a task force to address the issue of the illegal importation of Chilean sea bass. Representatives from several federal agencies will be invited to participate. A representative from CBP will be on that task force.

CBP enforces the restrictions and documentation requirements for the importation of Chilean sea bass in the following manner: Instructions in ACS have been updated to alert CBP officers to the new rule that took effect on June 16, 2003 requiring that imports of frozen toothfish and fresh shipments of over 2,000 kilograms present a signed and stamped approval NMFS form titled "Approval Action of Catch Documents for Toothfish Imports". Included in the instructions are contact points for CBP officers who have questions about the validity of such permits. All toothfish shipments are reviewed by CBP for proper documentation before they are released.

If a decision is made to impose import restrictions on more fish species CBP believes that it could operate in a similar manner. NMFS would approve a shipment in advance and issue an approval document. CBP

would examine the entry package to ensure that the shipment is in compliance and has approval from NMFS. Because of the anticipated volume, CBP would not (unlike what is done for toothfish) examine every entry package. Instead, CBP would perform selected verification on a risk management basis and concentrate on countries and importers that NMFS has identified as potential violators of international agreements. Any shipment not in compliance would be detained for appropriate action by NMFS.

CBP does not have the knowledge, expertise, or authority to implement fish tracking programs. We would leave such matters to agencies like NMFS, but as mentioned above, CBP could act as a "gatekeeper" helping prevent illegally caught shipments of fish (as determined by NMFS) from entering the U.S.

CBP does have the authority under its own statutes to seize products that are imported in violation of the laws of other agencies. The decision on the destruction of any seized fish products would be made on case by case basis. Input from the agencies concerned would be sought as to whether destruction or exportation would be appropriate.

I want to thank you and the members of the committee for considering Customs and Border Protection in your review of this resolution and will answer any questions the committee may have.